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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,707	08/26/2003	Ronald L. Mahany	14418US03	4060

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EXAMINER

CANGIALOSI, SALVATORE A

ART UNIT PAPER NUMBER

3621

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/648,707	Applicant(s) MAHANY, RONALD L.	
	Examiner Salvatore Cangialosi	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 43-89 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 43-89 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 43-89 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321 may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 43-89 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13, 20, 21-33, 43-49, 50, 52-54 of prior U.S. Patent No. 6,665,536. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are included within the scope of the claims of the prior patent (They are broader version of the patent claim).

Regarding claim 43, which generally corresponds to claim 1 of the patent, the claim module is an obvious access point. Claim 44 is an obvious variant of patent claim 2. Claim 45 is obvious variant of patent claim 2. Claim 46 is an obvious variant of patent claim 3. Claim 47 is a copy of patent claim 3. Claim 48 is a copy of patent claim 4. Claim 49 is a copy of patent claim 5. Claim 50 is a copy of patent claim 6. Claim 51 is a copy of patent claim 7. Claim 52 is a copy of patent claim 8. Claim 53 is a copy of patent claim 9. Claim 54 is a copy of patent claim 10. Claim 55 is a copy of patent claim 11. Claim 56 is a copy of patent claim 12. Claim 57 is a copy of patent claim 13. Claim 58 is an obvious equivalent of patent claim 10. Regarding claim 59, which generally corresponds to claim 1 of the patent, the claim module is an obvious access point. Claim 60 is an obvious variant of patent claim 2. Claim 61 is an obvious variant of patent claim 2. Claim 62 is an obvious variant of patent claim 3. Claim 63 is an obvious variant of patent claim 3. Claim 64 is a copy of patent claim 9. Claim 65 is a copy of patent claim 10. Regarding claim 60, which generally corresponds to claim 21 of the patent, the claim module is an obvious access point. Claim 67 is an obvious variant of patent claim 33. Claim 68 is an obvious variant of patent claim 33. Claim 69 is an obvious variant of patent claim 26. Claim 70 is an obvious variant of patent claim 30. Claim 71 is an obvious variant of patent claim 23. Claim 72 is a copy of patent claim 33. Claim 73 is an obvious variant of patent claim 25. Claim 74 is an obvious variant of patent claim 24. Claim 75 is an obvious variant of patent claim 23. Claim 76 is an obvious variant of patent claim 23. Regarding claim 77, which generally corresponds to claim 43 of the patent, the claim module is an obvious access point. Claim 77 is an obvious variant of patent claim 44. Claim 79 is an obvious variant of patent claims 44. Claim 80 is a copy

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of patent claim 44. Claim 81 is a copy of patent claim 45. Claim 82 is a copy of patent claim 46. Claim 83 is a copy of patent claim 47. Claim 84 is a copy of patent claim 48. Regarding claim 85, which generally corresponds to claim 50 of the patent, the claim module is an obvious access point. Claim 86 is an obvious variant of patent claim 53. Claim 87 is an obvious variant of patent claim 53. Claim 88 is an obvious variant of patent claim 53. Claim 89 is a copy of patent claim 53.

The terminal disclaimer filed 11/21/2005 is not approved because it was not signed by an attorney of record.

3 Restriction to one of the following inventions is required under 35 U.S.C.

121:

- I. Claims 43-65, drawn to communication module having two wireless transceivers, classified in class 455, subclass 422.1.
- II. Claims 66-71, 73-76, 85-89, drawn to wireless interface module, classified in class 455, subclass 432.2.
- III. Claims 72, 77-84, drawn to PCMLA wireless interface module, classified in class 455, subclass 432.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Group I and Group II and Group III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions do not require the particulars of each other, i.e. PCMLA interface of Group III is not required in the claims of Group II or Group I. The Module of Group I does not require the interface of Groups II or Group III.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter,

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restriction for examination purposes as indicated is proper. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II or Group III, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Examiner acknowledges applicants election of Group II. The requirement is made final and claims to the non-elected invention should be deleted. Examination of Group II will be held in abeyance until the terminal disclaimer is perfected.

This case also appears to be similar to 10/648,726. Applicant is requested to enumerate the differences there between.

Any inquiry concerning this communication should be directed to Salvatore Cangialosi at telephone number (571) 272-6927. The examiner can normally be reached 6:30 Am to 5:00 PM, Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached at (571) 272-6712.

Any response to this action should be mailed to:


Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

or faxed to (571)273-8300
Hand delivered responses should be brought to

United States Patent and Trademark Office
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Randolph Building
401 Dulany Street
Alexandria, VA 22314

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


SALVATORE CRINGOLA
PRIMARY EXAMINER
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